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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RALPH J. BEHMOIRAS, WILLIAM C. ERBEY,
ARTHUR J. CASTNER, CHRISTOPHER KENNEDY, and
KEITH S. RENO

Appeal 2016-003382
Application 13/932,532¹
Technology Center 3600

Before ANTON W. FETTING, BRUCE T. WIEDER, and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

WIEDER, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ According to Appellants, the real party in interest is Altisource Solutions S.à.r.l. of Luxembourg. (Appeal Br. 3.)

CLAIMED SUBJECT MATTER

Appellants' claimed invention "relates to a method and system for managing business transactions that require goods or services from multiple vendors." (Spec. ¶ 2.)

Claims 1, 12, and 18 are the independent claims on appeal. Claim 12 is illustrative. It recites:

12. A computer-implemented method for facilitating a first transaction between parties, the computer comprising at least one processor and at least one data repository operatively coupled to the at least one processor, the method comprising:

receiving, via the at least one processor, information regarding a first transaction;

identifying, via the at least one processor, at least one sub-transaction that is associated with the first transaction;

automatically identifying, via the at least one processor, a vendor for completing the at least one sub-transaction from a plurality of vendors based on the information relating to the first transaction;

ordering, via the at least one processor, the at least one sub-transaction from the automatically identified vendor; and

automatically receiving, via the at least one processor, processable data representing fulfillment of the at least one sub-transaction,

wherein the first transaction comprises one of an asset management transaction or a financial transaction.

REJECTION

Claims 1–20 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

ANALYSIS

In 2014, the Supreme Court decided *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014). *Alice* applies a two-part framework, earlier set out in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355.

Under the two-part framework, it must first be determined if “the claims at issue are directed to a patent-ineligible concept.” *Id.* If the claims are determined to be directed to a patent-ineligible concept, then the second part of the framework is applied to determine if “the elements of the claim . . . contain[] an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Id.* at 2357 (citing *Mayo*, 566 U.S. at 72–73, 79).

With regard to part one of the *Alice* framework, the Examiner determines that the claims are directed “identifying a vendor for processing a sub-transaction associated with a transaction (the nature of the transaction does not alter this concept) which is a fundamental economic practice.” (Final Action 5–6.)

Appellants disagree and argue “that the claims herein are not directed to any abstract idea much less directed to a fundamental economic practice.” (Appeal Br. 8.) Rather, Appellants argue, “the claimed invention should be viewed as a whole to determine whether it seeks ‘to “tie up” [] excepted subject matter and pre-empt other from using [an] . . . abstract idea.’” (*Id.* 8–9, alterations in original, citation omitted.)

Under part one of the *Alice* framework, we “look at the ‘focus of the claimed advance over the prior art’ to determine if the claim’s ‘character as a whole’ is directed to excluded subject matter.” *Affinity Labs of Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016) (quoting *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016)). Thus, although we consider the claim as a whole, the “directed to” inquiry focuses on the claim’s “character as a whole.”

The Specification provides evidence as to what the claimed invention is directed. In this case, the Specification discloses “managing business transactions that require goods or services from multiple vendors and in particular to methods and systems for providing a banking transaction to an individual while managing sub-transactions with one or more vendors.” (Spec. ¶ 2.) Claim 12 recites “[a] method for facilitating a first transaction . . . comprising: receiving . . . information regarding the first transaction,” “identifying . . . at least one sub-transaction associated with the first transaction,” “identifying . . . a vendor for completing the at least one sub-transaction,” “ordering . . . the at least one sub-transaction from the . . . identified vendor” “and . . . receiving . . . data representing fulfillment of the at least one sub-transaction.”

In short, without the processor elements, nothing remains in the claim but the abstract idea of “identifying a vendor for processing a sub-transaction associated with a transaction,” ordering the sub-transaction, and receiving fulfillment data. (See Final Action 5–6). As in *Alice*, we need not labor to delimit the precise contours of the “abstract ideas” category in this case. It is enough to recognize that there is no meaningful distinction in the level of abstraction between the concept of “creating a contractual

relationship” in *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1354–55 (Fed. Cir. 2014) and the concept of identifying a vendor (a contracting party) and ordering the “sub-transaction” from the vendor. Both are squarely within the realm of “abstract ideas” as the Court has used that term. *See Alice*, 134 S. Ct. at 2357. That claim 12 includes language regarding receiving fulfillment data and limiting the first transaction to “one of an asset management transaction or a financial transaction” does not change our analysis. *See Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (“[W]e have treated collecting information, including when limited to a particular content (which does not change its character as information), as within the realm of abstract ideas.”)

Regardless, Appellants argue

that – just as the claims in *DDR* – the independent claims provided herein “stand apart because they do not merely recite the performance of some business practice known from [sic] the pre-Internet world along with the requirement to perform it on the Internet.” 773 F.3d at 1257. Instead, they recite a technical solution specifically for a technical problem which plagues known computer-implement [sic] financial transaction systems. *See Appellants’ Specification* at p. 1, ll. 23–p. 2, ll. 1-2.

(Appeal Br. 10.)

We are not persuaded of error. Appellants attempt to analogize the claimed invention to the claims in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). But unlike the present claims, the claims in *DDR Holdings* “specify how interactions with the Internet are manipulated to yield a desired result — *a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.*” *DDR Holdings*, 773 F.3d at 1258 (emphasis added). In other

words, the invention claimed in *DDR Holdings* does more than “simply instruct the practitioner to implement the abstract idea with routine, conventional activity.” *See Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014); *see also DDR Holdings*, 773 F.3d at 1259. In this case, “receiving . . . information,” “identifying . . . [a] sub-transaction,” “identifying . . . a vendor for completing the . . . sub-transaction,” “ordering . . . the . . . sub-transaction from the . . . vendor,” “and . . . receiving . . . data representing fulfillment of the . . . sub-transaction,” using a processor (Claim 12), is “nothing more than the performance of an abstract business practice . . . using a conventional computer. Such claims are not patent-eligible.” *DDR Holdings*, 773 F.3d at 1256.

Appellants further argue that the claims cannot be directed to an abstract idea because “no ‘fundamental’ economic practice is in fact recited or described in the claims as evidenced by the lack of any novelty or obviousness rejection.” (Appeal Br. 9.) We do not find this argument persuasive of error. “The ‘novelty’ of any element or steps in a process, or even of the process itself, is of no relevance in determining whether the subject matter of a claim falls within the § 101 categories of possibly patentable subject matter.” *Diamond v. Diehr*, 450 U.S. 175, 188–89 (1981).

Part two of the *Alice* framework has been described “as a search for an ‘“inventive concept” ’—*i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Alice*, 134 S. Ct. at 2355 (citing *Mayo*, 566 U.S. at 72–73).

The introduction of a processor or computer into the claim does not alter the analysis at step two.

[T]he mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention. Stating an abstract idea “while adding the words ‘apply it’ ” is not enough for patent eligibility. Nor is limiting the use of an abstract idea “ ‘to a particular technological environment.’ ” Stating an abstract idea while adding the words “apply it with a computer” simply combines those two steps, with the same deficient result. Thus, if a patent’s recitation of a computer amounts to a mere instruction to “implemen[t]” an abstract idea “on . . . a computer,” that addition cannot impart patent eligibility. This conclusion accords with the preemption concern that undergirds our §101 jurisprudence. Given the ubiquity of computers, wholly generic computer implementation is not generally the sort of “additional featur[e]” that provides any “practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.”

Id. at 2358 (citations omitted).

“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea . . . on a generic computer.” *Id.* at 2359. They do not. As discussed above, the claims relate to a method for “identifying a vendor for processing a sub-transaction associated with a transaction,” ordering the sub-transaction, and receiving fulfillment data. (*See* Final Action 5–6).

Taking the claim elements separately, the function performed by the processor at each step is purely conventional. Receiving data, matching data (i.e., identifying a vendor), and outputting data (i.e., sending the order) are basic computer functions. Moreover, the Specification discloses that the invention can be implemented using generic computer components. (*See*,

e.g., Spec. ¶ 63–65.) In short, each step does no more than require a generic computer to perform generic computer functions.

Considered as an ordered combination, the computer components of Appellants’ method add nothing that is not already present when the steps are considered separately. The claims do not, for example, purport to improve the functioning of the computer itself. Nor do they effect an improvement in any other technology or technical field. Instead, the claims at issue amount to nothing significantly more than an instruction to apply the abstract idea using some unspecified, generic processor. That is not enough to transform an abstract idea into a patent-eligible invention. *Alice*, 134 S. Ct. at 2360.

Therefore, we are not persuaded that the Examiner erred in rejecting claim 12 under § 101.

Independent claims 1 and 18 are not separately argued. And although Appellants provide a separate topic heading for dependent claims 2–11, 13–17, 19, and 20 (*see* Appeal Br. 18), no separate substantive arguments are presented. Therefore, claims 1–11 and 13–20 fall with claim 12. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

The Examiner’s rejection of claims 1–20 under 35 U.S.C. § 101 is affirmed.

Appeal 2016-003382
Application 13/932,532

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED